

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANTE HYNDMAN,

Plaintiff,

-against-

SMALL BUSINESS ADMINISTRATION;
ISABEL GUZMAN, in her official capacity as
Administrator of the Small Business
Administration; JANET YELLEN, in her official
capacity as Secretary of the Treasury; and the
UNITED STATES OF AMERICA,

Defendants.

ORDER OF SERVICE

22-CV-4973 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff, appearing *pro se*, brings this action under the Administrative Procedure Act, 5 U.S.C. §§ 702, 703, seeking review of the Small Business Administration’s (“SBA”) decision to deny him a COVID-19 Economic Injury Disaster Loan, a program created by the Coronavirus Aid, Relief, and Economic Security Act. By order dated July 14, 2022, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

To allow Plaintiff to effect service on Defendants SBA; Isabel Guzman, the Administrator of the SBA; Janet Yellen, the Secretary of the Treasury; and the United States of America through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these Defendants. The Clerk of Court is further instructed to: (1) mark the box on the USM-285 form labeled “Check for service on U.S.A.”; and (2) issue summonses and deliver to the Marshals Service a copy of this order and all other paperwork necessary for the Marshals Service to effect service on the Defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.


CONCLUSION

The Clerk of Court is instructed to (1) issue summonses for the SBA, Guzman, Yellen, and the United States; (2) complete the USM-285 forms with the addresses for each defendant; (3) mark the box on the USM-285 forms labeled “Check for service on U.S.A.”; and (4) deliver to the U.S. Marshals Service all documents necessary to effect service on Defendants.

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED:

Dated: White Plains, New York
July 19, 2022



Philip M. Halpern
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. United States Small Business Administration
409 3rd Street, SW
Washington, DC 20416
2. Isabella Casillas Guzman
Administrator
United States Small Business Administration
409 3rd Street, SW
Washington, DC 20416
3. Janet Yellen
Secretary of the Treasury
United States Department of the Treasury
1500 Pennsylvania Avenue
Washington, DC 20220
4. United States of America
United States Attorney, Southern District of New York
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